

REMARKS

Claims 1-15 are currently pending in this application, with Claims 1 and 9 being independent claims. Claims 1, 2, 7-9, and 14-15 are rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 7,505,935 to Mendiola et al. (hereinafter, "Mendiola") in view of U.S. Patent Application No. 2004/0111341 to Aikoh et al. (hereinafter, "Aikoh"). Claims 3-6 and 10-12 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Applicant respectfully antedates Aikoh et al. In the Final Office Action dated June 24, 2009, the Examiner cited Aikoh as a reference in the rejections of the claims. In the Response dated August 24, 2009, a certified translation of the KPA 10349/2003, to which the present application claims priority, was filed in order to perfect the priority claim of the present application and remove Aikoh as a reference. Aikoh et al. claims priority to PCT Application No. PCT/JP01/08608, which was filed on September 28, 2001. However, PCT Application PCT/JP01/08608 was published only in Japanese, but was not published in English under PCT Article 21(2). Therefore, pursuant to MPEP §2136.03 II, the critical reference date of Aikoh et al. is its corresponding U.S. filing date of March 13, 2003. Therefore, the February 19, 2003 priority date of the present application is prior to the March 13, 2003 critical reference date of Aikoh et al. and therefore, Aikoh et al. is not prior art in the present application.

In the Office Action dated October 6, 2009, in response to the assertion that Aikoh is not prior art, the Examiner stated, "Applicant's arguments filed 8/24/2009 have been fully considered and are persuasive." (Office Action dated October 6, 2009, page 2). In the present Office Action, the Examiner does not provide any new evidence asserting that Aikoh should be treated as prior art. Therefore, Aikoh should not be considered prior art for the reasons set forth in the Response dated August 24, 2009, which have been acknowledged by the Examiner in the following Office Action dated October 6, 2009.

Accordingly, withdrawal of the §103(a) rejections of Claims 1-2, 7-9, and 14-15, which all rely upon Aikoh, is respectfully requested.

Accordingly, all of the claims pending in the Application, namely, Claims 1-15 are in condition for allowance. Should the Examiner believe that a telephone conference or personal interview would facilitate resolution of any remaining matters, the Examiner may contact Applicant's attorney at the number given below.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Paul J. Farrell", written in a cursive style.

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